

**DEPARTMENT OF WORKFORCE  
DEVELOPMENT**

Secretary Roberta Gassman  
201 East Washington Avenue  
P.O. Box 7946  
Madison, WI 53707-7946  
Telephone: (608) 266-7552  
FAX: (608) 266-1784  
www.dwd.state.wi.us



**State of Wisconsin  
Governor Jim Doyle**

**DEPARTMENT OF HEALTH AND  
FAMILY SERVICES**

Secretary Helene Nelson  
1 West Wilson Street  
P.O. Box 7850  
Madison, WI 53707-7850  
Telephone: (608) 266-9622  
FAX: (608) 266-7882  
www.dhfs.state.wi.us

**TO: Economic Support Supervisors  
Economic Support Lead Workers  
Training Staff  
Child Care Coordinators  
W-2 Agencies**

**FROM: Amy Mendel-Clemens  
Communications Section  
Bureau of Health Care Eligibility**

**BHCE/BWP OPERATIONS MEMO**

**No.: 03-06**

**Date: 01/31/2003**

**Non W-2 ☒ W-2 ☐ CC ☐**

**PRIORITY: HIGH**

**SUBJECT: Revised Medicaid Presumptive Disability Policy and Process**

**EFFECTIVE DATE:** February 17, 2003

**PURPOSE**

Introduce and describe Wisconsin's revised presumptive disability policy and process.

**BACKGROUND**

Federal Medicaid law and regulation require states to specify whether the state's Medicaid program uses the SSI definition of disability or has chosen a more restrictive disability definition. Wisconsin's Medicaid State Plan specifies that Wisconsin applies the SSI definition of disability.

**SSI PRESUMPTIVE DISABILITY**

Federal SSI law and regulation state that the SSI program can find an individual to be presumptively disabled. An individual found to be presumptively disabled will be treated as a person with a disability until a final disability determination can be completed. To be treated as presumptively disabled by SSI means that the applicant's benefits can begin before SSA, or its contracted agency, has formally determined the individual to be disabled.

## WISCONSIN MEDICAID PRESUMPTIVE DISABILITY

Wisconsin's Medicaid program also allows a determination of presumptive disability.

The current Presumptive Disability process now requires the worker and applicant to complete a Medicaid Disability Application (HCF 10112, formerly DES 3071), a Presumptive Disability form, and the Confidential Information Release Authorization form (HFS-9). All of these documents are then submitted to the Disability Determination Bureau (DDB), where within 3-5 days, DDB provides the agency with a finding on the question of presumptive disability.

In an effort to further streamline and expedite the Medicaid Presumptive Disability process for persons with urgent medical needs, representatives from county economic support agencies, community based organizations and the Division of Health Care Financing in DHFS have worked together to identify modifications to the current process. These modifications are modeled after the federal SSI presumptive disability regulations that indicate that a person can be determined presumptively disabled by an intake worker, under certain circumstances.

**NOTE ➤** Remember that the presumptive disability determination is not the final decision. All Medicaid disability applications must still go to DDB for a final disability decision.

## ***REVISED POLICY AND PROCESS***

When a client has an urgent need for medical services and is likely to be found disabled by DDB, the client may be certified as presumptively disabled by the Economic Support worker. In determining that the applicant is presumptively disabled, the Economic Support worker will need a medical professional to attest to the fact that the individual is in a situation that constitutes an urgent need for medical services and that the individual has certain impairments.

A medical professional is defined as any health care provider or health care worker who is familiar with the applicant and is qualified to confirm the presence of an 'urgent need' and the presence of one of the impairments listed in this Operations Memo.

## URGENT NEED

The criteria for an urgent need include the following:

1. The applicant is a patient in a hospital or other medical institution<sup>1</sup>; or
2. The applicant will be admitted to a hospital or other medical institution without immediate health care treatment; or

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<sup>1</sup> A medical institution is defined in 42 CFR 435.1009 as an institution that is "(a) organized to provide medical care, including nursing and convalescent care; (b) has the necessary professional personnel, equipment, and facilities to manage the medical, nursing, and other health needs of patients on a continuing basis in accordance with accepted standards; (c) is authorized under State law to provide medical care; and (d) is staffed by professional personnel who are responsible to the institution for professional medical and nursing services. The services must include adequate and continual medical care and supervision by a physician; registered nurse or licensed practical nurse supervision and services and nurses' aid services, sufficient to meet nursing care needs; and a physician's guidance on the professional aspects of operating the institution."

3. The applicant is in need of long-term care and the nursing home will not admit the applicant until Medicaid benefits are in effect; or
4. The applicant is unable to return home from a nursing home unless in-home service or equipment is available and this cannot be obtained without Medicaid benefits.

**NOTE ➤** In addition to health conditions of a physical nature, the above criteria may also apply to an urgent need resulting from an individual's serious and persistent mental illness.

**Example:** an individual with schizophrenia who will need to be hospitalized if he or she does not take prescribed medication has an 'urgent need' if such medication is not available without Medicaid coverage.

#### LISTED IMPAIRMENTS

Once an urgent need for medical services has been identified, the Economic Support worker can certify the client as presumptively disabled if the client has one of the following readily apparent impairments that make it likely that DDB will find the client disabled:

1. Amputation of a leg at the hip.
2. Allegation of total deafness.
3. Allegation of total blindness.
4. Allegation of bed confinement or immobility without a wheelchair, walker, or crutches due to a condition that's expected to last 12 months or longer.
5. Allegation of a stroke (cerebral vascular accident) more than three months in the past and continued marked difficulty in walking or using a hand or arm.
6. Allegation of cerebral palsy, muscular dystrophy or muscle atrophy and marked difficulty in walking (e.g., use of braces), speaking, or coordination of the hands or arms.
7. Allegation of Down's syndrome.
8. Allegation of severe mental deficiency made by another individual filing on behalf of a claimant who is at least seven years of age. For example, a mother filing for benefits for her child states that the child attends (or attended) a special school, or special classes in school, because of mental deficiency or is unable to attend any type of school (or if beyond school age, was unable to attend), and requires care and supervision of routine daily activities. Note: 'Mental deficiency' means mental retardation. This category pertains to individuals whose dependence upon others for meeting personal care needs (e.g., hygiene) and in doing other routine disability activities (e.g., fastening a seat belt) grossly exceeds age appropriate dependence as a result of mental retardation.
9. A physician or knowledgeable hospice official (hospice coordinator, staff nurse, social worker or medical records custodian) confirms an individual is receiving hospice services because of a terminal condition, including but not limited to terminal cancer.
10. Allegation of spinal cord injury producing inability to ambulate without the use of a walker or bilateral hand-held devices for more than two weeks, with confirmation of such status from an appropriate medical professional.
11. End stage renal dialysis confirmed by a medical professional.
12. The applicant's attending physician states the applicant will be unable to work or return to normal functioning for at least 12 months or the condition will result in death within the next 12 months.
13. The client has a positive diagnosis of HIV with other serious health conditions and will be unable to work or return to normal functioning for at least 12 months or the condition will result in death within the next 12 months.

APPLICANT HAS AN URGENT NEED AND A LISTED IMPAIRMENT

If the applicant has an urgent need for medical services and one of the above listed impairments, the Economic Support worker can certify the applicant as presumptively disabled using the Medicaid Presumptive Disability form (HCF 10130) to document his or her Medicaid Presumptive Disability decision. A medical professional must complete and sign the form before the worker can certify the individual as presumptively disabled. The worker should not require any additional documentation from the medical professional beyond the Medicaid Presumptive Disability form. Once completed, place a copy of this form in the case file.

Once a presumptive disability decision has been made, the Medicaid Disability Application form (HCF 10112, formerly DES 3071) must be completed and sent to the DDB along with the necessary copies of the Confidential Information Release Authorization form (HFS-9). The DDB will then process the disability application and make a final disability determination.

If the DDB's disability eligibility determination is unfavorable, benefits cannot be recovered while the decision was being made, unless the individual made misstatements or omissions of fact at the time of the presumptive disability determination.

APPLICANT HAS AN URGENT NEED BUT DOES NOT HAVE A LISTED IMPAIRMENT

If the applicant has an urgent need, but does not have one of the above listed impairments, the Economic Support worker will document the urgent need decision by completing the Medicaid Presumptive Disability form (HCF 10130) and placing it in the case file. The worker should then complete, with assistance from the applicant as necessary, the following three forms:

- The Request for Medicaid Presumptive Disability Decision form (HCF 10125).
- The Medicaid Disability Application form (HCF 10112, formerly DES 3071).
- The Confidential Information Release Authorization form (HFS-9).

The Economic Support worker will then send (via FAX) each of the three forms listed above to DDB for a presumptive and final disability determination.

DDB will be obligated to make a presumptive disability finding on these cases and communicate their finding to the local Economic Support Agency within three business days of receiving the request for presumptive disability and the HCF 10112 form (not including the day the fax was received).

If the DDB returns a negative Presumptive Disability decision, the Economic Support worker must send a manual notice of decision to the applicant. The notice must state:

"Your request for Medicaid is based upon your statement that you are disabled. The final decision on your disability has not yet been made, however we have determined that you cannot be considered presumptively disabled. This means that you cannot be certified as eligible for Medicaid as a person with a disability until a final disability decision has been made. You will be informed when the Disability Determination Bureau makes the final disability decision. (Wis. Stats. ss. 49.46 and 49.47)"

**DECEASED APPLICANTS**

While a deceased person can be eligible for Medicaid in the months prior to his/her death, presumptive disability determinations are not allowed for individuals that are deceased. Process such requests for a final disability determination through the disability process through DDB.

***FORMS/BROCHURES*****MANUAL LETTER**

New manual letter text has been included in this Operations Memo so that the Economic Support worker can inform the applicant that DDB has determined that s/he is not presumptively disabled, but that a final disability decision will be rendered based upon medical evidence.

DHCF is in the process of adding this letter to CARES as a standard letter.

**MEDICAID PRESUMPTIVE DISABILITY FORM (HCF 10130)**

A new Medicaid Presumptive Disability form (see attached) has been created. Workers will use this form to indicate the reason for the presumptive disability decision they have made and to record signatures (if needed) of a health care medical professional to verify certain conditions. This form should be retained in the case records.

**REQUEST FOR MEDICAID PRESUMPTIVE DISABILITY DECISION FORM (HCF 10125)**

A new Request for Medicaid Presumptive Disability Decision form (see attached) has been created. Workers will use this form, along with the Medicaid Disability Application (HCF 10112, formerly DES 3071) and the Confidential Information Release Authorization form (HFS 9) when an applicant has an urgent need for medical services, but does not have an impairment under which the worker can make the presumptive disability decision.

***CARES CHANGES***

DHCF staff is in the process of modifying the ANDI screen to include a reason code for a worker's presumptive disability decision as opposed to a presumptive disability decision made by the DDB.

***ATTACHMENTS***

Medicaid Presumptive Disability Form (HCF 10130)  
Request For Medicaid Presumptive Disability Decision Form (HCF 10125)  
Medicaid Disability Application (HCF 10112)

## **CONTACTS**

BHCE CARES Information & Problem Resolution Center

Email: [carpolcc@dwd.state.wi.us](mailto:carpolcc@dwd.state.wi.us)  
Telephone: (608) 261-6317 (Option #1)  
Fax: (608) 266-8358

Note: Email contacts are preferred. Thank you.